

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**B.P.J., by her next friend and mother,
HEATHER JACKSON,**

Plaintiff,

v.

**Civil Action No. 2:21-cv-00316
Honorable Joseph R. Goodwin**

**WEST VIRGINIA STATE BOARD OF
EDUCATION; HARRISON COUNTY
BOARD OF EDUCATION; WEST
VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION; W.
CLAYTON BURCH, in his official
capacity as State Superintendent; and
DORA STUTLER, in her official capacity
as Harrison County Superintendent,**

Defendants.

**DEFENDANTS WEST VIRGINIA STATE BOARD OF EDUCATION
AND SUPERINTENDENT W. CLAYTON BURCH'S MOTION
TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT**

NOW COME Defendants West Virginia State Board of Education and Superintendent W. Clayton Burch, by and through counsel, Kelly C. Morgan, Michael W. Taylor, Kristen V. Hammond, and the law firm of Bailey & Wyant, P.L.L.C., pursuant to Rules 12(b)(1) and 12(b)(6) of the *Federal Rules of Civil Procedure*, and hereby move this Court for entry of an Order dismissing them from this matter, with prejudice, because this Court lacks subject-matter jurisdiction over them on the basis of standing and ripeness, the parties are duplicative, and Plaintiff's First Amended Complaint fails to state a claim against them upon which relief can be granted. Said reasons are more fully presented in the contemporaneously filed Memorandum of Law in Support of

their Motion to Dismiss Plaintiff's First Amended Complaint.

WHEREFORE, based upon the foregoing and the reasons asserted in the contemporaneously filed Memorandum of Law, Defendants West Virginia State Board of Education and Superintendent W. Clayton Burch respectfully request that this Court enter an Order dismissing them from this action, with prejudice, and awarding them such other relief deemed necessary and appropriate.

Respectfully Submitted,

**DEFENDANTS WEST VIRGINIA
STATE BOARD OF EDUCATION
and W. CLAYTON BURCH**

By Counsel,

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Defendants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of foregoing “**Defendants West Virginia State Board of Education and Superintendent W. Clayton Burch’s Motion to Dismiss Plaintiff’s First Amended Complaint**” was served upon the following parties through the Court’s Electronic Case Filing (ECF) system on this day, July 30, 2021:

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